



NOVA SCOTIA BARRISTERS' SOCIETY

POLICY ON APPLICATIONS FOR TRANSFER FROM A JURISDICTION OUTSIDE CANADA

1.1 Application for Transfer

1.1.1 Applicants for transfer from a jurisdiction outside Canada are governed by Regulation 6.2.

Eligibility Requirements

1.1.2 Regulation 6.2.2 sets out the eligibility requirements:

Eligibility

6.2.2 To be eligible to be a practising lawyer an applicant must:

- a) have a law degree¹,
- b) be a lawyer in a jurisdiction, other than the Province, in which the legal profession is regulated,
- c) be of good character,
- d) be a fit and proper person to be a lawyer
- e) be competent to carry on the practice of law in the Province;
- f) be lawfully entitled to be employed in Canada.

Law Degree Defined

1.1.3 If an applicant's law degree was obtained outside Canada, the applicant must apply to the National Committee on Accreditation to have the law degree assessed. Once the applicant has received a Certificate of Qualification, the applicant can commence the process to transfer to Nova Scotia.

Application Requirements

1.1.4 Regulation 6.2.3 sets out the application requirements:

Content of Application

6.2.3 An application under this regulation, accompanied by the prescribed fee, shall be in a prescribed form and shall provide:

- a) contact information,
- b) the professional history,
- c) information confirming good character,
- d) information confirming fitness,
- e) unless the applicant is entitled to practise law in a reciprocating jurisdiction,
- f) information confirming competence,
- g) a certificate of standing from each law society in which the applicant is or has
- h) been a member,
- i) information about any outstanding complaint pending in a jurisdiction other than the Province in which the applicant has practised,

¹ "Law degree" is defined in Regulation 1.1.1(s):

"law degree" means

- (i) a bachelor's degree, or an equivalent degree from a Canadian law school, as determined by the Credentials Committee, or
- (ii) a degree in civil law, if the holder of the degree has passed a comprehensive examination in common law or has successfully completed a common law conversion course approved by the Credentials Committee, or
- (iii) a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada.

- j) confirmation the applicant has a law degree, and
- k) such other information as may be required by the Executive Director or the
- l) Committee.

No Greater Rights

1.1.5 A transfer applicant, or a lawyer called to the Bar on transfer, has no greater rights as a member of the Nova Scotia Barristers' Society than:

- a) he or she has as a member of the governing body of his or her home jurisdiction;
- b) any other member of the Nova Scotia Barristers' Society in similar circumstances.

2.1 Options of the Executive Director

2.1.1 Good Character or Fitness

The Executive Director may obtain additional information regarding the applicant's good character or fitness from the applicant or any other person.

Approval of Application

2.1.2 The Executive Director may approve a transfer application, with or without terms, and stipulate the effective date, if it is consistent with the public interest.

Applications to be Considered on a Case-by-Case Basis

2.1.3 The Executive Director will consider each transfer application case-by-case, and when assessing the application will consider the background of the individual applicant, the legal system of the applicant's home jurisdiction, and the manner of regulation of the legal profession in the home jurisdiction.²

Terms of Approval

2.1.4 The Executive Director may include in the approval of the application the following terms:

- a) that the applicant article³ for a specified time under the supervision of a practicing lawyer, who is acceptable to the Executive Director, and who qualifies to act as a principal;
- b) that the applicant satisfy the Executive Director of his or her character and fitness for admission as a lawyer; and
- c) that the applicant complete other requirements of the Executive Director.

Requirements of Articled Clerks

2.1.5 As the reason applicants referenced in paragraph 2.1.4 are being enrolled as articled clerks is to meet insurance requirements, if it is in the public interest, pursuant to Regulation 3.4.1, the Executive Director may

² In determining how similar the legal system in the home jurisdiction is to the Canadian/Nova Scotian legal system, the Executive Director will refer to:

- (a) The Juri Globe website with information on the world's legal systems – This contains a list of political entities and their corresponding legal systems; and
- (b) GlobalLex – an electronic legal publication published by the Hauser Global Law School Program at NYU School of Law devoted to international and foreign law research.

The National Committee on Accreditation also uses these websites when assessing foreign law degrees.

³ While Regulation 6.2.7(a) gives the Executive Director discretion to require an applicant to *practice under supervision* for a specified time as a term of transfer, this requirement would be a barrier to internationally trained lawyers as they cannot obtain insurance, which is a requirement for a practising lawyer. (Lawyers in Nova Scotia are insured through CLIA – the Canadian Lawyers Insurance Association. It is CLIA policy – not the policy of the Nova Scotia Barristers' Society - that only lawyers called to the Bar in a Canadian province or articled clerks are eligible for insurance.) To avoid erecting a barrier to licencing while regulating in the public interest, the Executive Director will enroll internationally trained lawyers who are required to complete a period of practice under supervision as articled clerks pursuant to Regulation 6.2.7(c). This will allow the applicants the opportunity to work and complete the supervision requirement while ensuring the availability of insurance necessary for public protection. Additionally, this will conform with the requirements of other Canadian jurisdictions as they require articling.

vary the requirements otherwise expected of an articled clerk by waiving one or more of the requirements for admission.⁴

Bar Examination

2.1.6 The Executive Director may require a transfer applicant to write and pass the bar examination; however, any transfer applicant who is not required to pass the bar examination must certify review and comprehension of materials specified by the Executive Director, prior to the call to the Bar.

Denial of Application

2.1.7 The Executive Director may deny an application for any reason, except for reasons of good character or fitness, which shall go to the Credentials Committee.

Application Denied or Approved with Terms

2.1.8 If the Executive Director makes a decision denying the application or approving it with terms, the Executive Director will provide the applicant with written reasons and inform the applicant of the internal review process.

3.1 Referral to Credentials Committee

3.1.1 The Executive Director must refer to the Credentials Committee any application for transfer raising an issue of good character or fitness.

Options for the Committee

3.1.2 After considering the application and all information provided by the Executive Director, the Committee may:

- a) defer a decision and request the Executive Director obtain new information;
- b) approve the application, with or without terms, and stipulate the effective date of enrolment; or
- c) deny the application.

Review of Committee's Decision

3.1.3 If the Committee's decision denies the application, or approves the application with terms, the Committee will:

- (a) provide the applicant with written reasons, and
- (b) inform the applicant of the right to appeal to the Credentials Appeal Panel.

4.1 Eligible for Call to the Bar

4.1.1 An applicant who has completed all requirements under Regulation 6.2 is eligible to be called to the Bar.

Notification on Approval

4.1.2 Upon approval of an application on transfer, the Executive Director will notify the applicant and advise of the date for the call to the Bar, and will amend the Nova Scotia Barristers' Society records to reflect the approval and call date.

Approved by the Credentials Committee – April 23, 2010

⁴ Among other requirements, articled clerks are required to article for 12 months and must complete the Bar Admission Course, including the bar exam, the Skills Course and any required seminars. By way of example, if it is felt that the public interest would be served by requiring an applicant to pass the bar examination and work under supervision for six months, pursuant to Regulation 3.4.1, the Executive Director could shorten the articling period to six months and eliminate the requirement that the applicant attend the Skills Course and seminars.